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## **MINUTES OF THE FSA BOARD MEETING HELD ON 20 JUNE 2018**

THE DALES, DOUBLETREE BY HILTON HOTEL, YORK

### **Present:**

Heather Hancock, Chair; Laura Sandys, Deputy Chair; David Brooks; Rosie Glazebrook; Stewart Houston; Ruth Hussey; Colm McKenna; Mary Quicke; Stuart Reid; Paul Williams.

### **Officials attending:**

Rod Ainsworth - Director of Regulatory and Legal Strategy  
Zoë Bond – Joint Head of Private Office (for paper FSA 18/06/11)  
Steven Cowperthwaite - Head of EU and International Strategy (for paper FSA 18/06/10)  
Simon Dawson - Head of Operations Assurance (for papers FSA 18/06/07 and FSA 18/06/08)  
Laura Eden – Joint Head of Private Office (for paper FSA 18/06/11)  
Jason Feeney - Chief Executive  
Chris Hitchen - Director of Finance and Performance  
Maria Jennings - Director of Northern Ireland and Organisational Development  
Rebecca Lamb – Head of EU Exit (for paper FSA 18/06/03)  
Ian McWatt – Chief Operating Officer from Food Standards Scotland (for paper FSA 18/06/08)  
Andy Morling – Head of the National Food Crime Unit (for paper FSA 18/06/09)  
Julie Pierce - Director of Openness, Data and Digital  
Guy Poppy - Chief Scientific Adviser  
Nina Purcell - Director of Wales and Regulatory Delivery Division  
Leigh Sharpington - Regulating Our Future Programme Manager (for paper FSA 18/06/06)  
Colin Sullivan - Chief Operating Officer  
Michael Wight - Acting Director of Policy and Science

### **Apologies:**

Steve Wearne – Director of Policy and Science Group

## **WELCOME AND ANNOUNCEMENTS**

1. The Chair welcomed everyone in the room and those watching online to the meeting. She noted she had received apologies from the FSA Director of Science and Policy, Steve Wearne, who would be returning to full time work in late June. She welcomed Ian McWatt – Chief Operating Officer from Food Standards Scotland (FSS), who was sitting in the audience but would join the table for the Cutting Plants and Cold Stores review. She also congratulated Board Member Stuart Reid, who had recently been recognised with a CBE in the Queen's Birthday Honours.

2. The Chair reminded Board Members to declare any relevant interests before they contributed to the discussion and the Board confirmed that they had no additional business they wished to be tabled.
3. The Chair reported that for this meeting, a new process of asking and answering questions was being trialled. This would allow for Board Members to note the questions received from the public at the outset, and to consider how they feed the responses to the questions into the discussion. She invited Steven Pollock, the FSA's Director of Communications, to read a full list of questions that had been received in advance of the meeting and confirmed that these would be considered as part of the relevant paper discussion during the course of the meeting, or would be answered by correspondence within 14 working days.
4. Steven Pollock announced the eleven questions received, in six pieces of correspondence. A full list of the questions posed and their accompanying answers was published on the FSA website within fourteen working days. Full list [available here](#).

#### **MINUTES OF MEETING HELD ON 14 MARCH 2018 (FSA 18/06/01)**

5. The Board accepted the Minutes as an accurate record of their discussion.

#### **ACTIONS ARISING (FSA 18/06/02)**

6. The Board noted the Actions Arising from the March Board Meeting, and commented it was helpful to understand progress towards fulfilling each action, whether completed or ongoing.

#### **CHAIR'S REPORT TO THE BOARD**

7. The Chair highlighted a number of engagements since the March Board Meeting, and noted that her main activities had been focused around increasing the FSA's engagement at a political level. She and Board Member Dr Ruth Hussey continued to meet regularly with Vaughan Gething AM, Cabinet Secretary for Health and Social Services for Wales. The Chair had held a regular meeting with Lord Gardiner of Kimble, Parliamentary Under-Secretary of State (Department for Environment, Food and Rural Affairs, Defra). Other engagements including meeting with Sue Hayman MP, the Shadow Secretary of State for Environment, Food and Rural Affairs (EFRA), and David Drew MP, the Shadow Farming Minister. The Chair was particularly keen to strengthen the FSA's relationships in the House of Lords, and to that end had held meetings involving Lord Krebs and Lord Rooker (former Chairs of the FSA), Baroness Jones of Whitchurch, Baroness McIntosh of Bakewell of Hardington Mandeville, the Countess of Mar, Lord Trees and Lord Deben

8. The Chair also noted meetings with EFRA Committee Members Neil Parish MP (Chair) and Angela Smith MP.
9. The Chair commented that she and Jason Feeney, the Chief Executive (CE), had together attended key Ministerial meetings on EU Exit. They had met Steve Baker MP, Parliamentary Under-Secretary of State in the Department for Exiting the European Union (DExEU) to discuss FSA plans. Following that meeting, the Minister had convened two additional cross-Ministerial meetings, one with George Eustice MP, Minister of State for Agriculture, Fisheries and Food (Defra) and Lord O'Shaughnessy, Parliamentary Undersecretary of State for Health, and with George Eustice MP, Lord Gardiner of Kimble, to continue this work. The Board would hear more detail when they discussed EU exit later in the meeting.
10. The Chair reported that she and the CE had invited representatives from the British Retail Consortium, Food Industry Intelligence Network (FIIN), the Food and Drink Federation and the National Farmers Union to a meeting at the FSA's offices in Clive House, again to focus on EU Exit planning. She added that they had also met separately with Paul Willgoss, the Head of FIIN to ensure the FSA is well positioned to be able to strengthen its expansion of the National Food Crime Unit (NFCU). The Chair and CE also met representatives of the Responsible Use of Medicines in Agriculture Alliance (RUMA) to discuss their progress with respect to tackling anti-microbial resistance (AMR). The Chair reminded the Board that they would hear a full update on FSA's work in relation to AMR after the summer.
11. She noted that she and the CE had visited Kent County Council's Scientific Laboratory the week before the Board Meeting.
12. The Chair reported that the Board and Executive Management Team (EMT) visited a number of abattoirs and cutting plants the day before the Board meeting – Bramall and Sons cattle abattoir, Al-Ummah halal poultry plant, Karro Foods pig abattoir and cutting plant, Yorkshire Abattoir Services non-stun halal sheep plant and the 2 Sisters Scunthorpe poultry abattoir – which had given them the opportunity to meet plant owners and FSA staff, and had offered Board members the opportunity to understand the range of meat controls the FSA has across food businesses. She added that these visits would assist the Board in their discussion of the Cutting Plants and Cold Stores review paper.
13. The Chair noted that the Board and EMT hosted Paul Stennett, the Chief Executive of United Kingdom Accreditation Service (UKAS) at dinner the night before the Board meeting; they had discussed assurance and accreditation.
14. The Board had no questions relating to the Chair's engagements.

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**CHIEF EXECUTIVE'S REPORT TO THE BOARD (FSA 18/06/04)**

15. The CE noted that his report to the Board touched on issues that would be discussed in greater detail later in the meeting – including the FSA's international work and the expansion of the NFCU.
16. He highlighted the FSA's continued development of the blockchain programme of work, which he noted had received a lot of enthusiasm across the industry and had shown encouraging results.
17. The CE reminded the Board about Food Safety Week and thanked Steven Pollock, the Director of Communications, and the FSA's Communications team for what he felt had been a very successful and encouraging campaign, highlighting a wide variety of the FSA's work. He also thanked the FSA officials who had volunteered to publicise their roles and promote the theme of learning about those who 'Protect Your Plate'.
18. The CE reported that he and Chris Hitchen, the Director of Finance and Performance, were finalising the publication of the Annual Reports and Accounts and thanked Chris and his team for producing such high-quality work.
19. In response to Board Member Paul Williams' interest in the blockchain pilot, Julie Pierce, the Director for Digital, Data and Openness, added that this pilot focused on the accessibility of rather than volume of data. She noted that the FSA was still assessing its role in this work going forward, but had found that the programme had been quick to deploy and had yielded helpful results. The Chief Scientific Advisor (CSA), Professor Guy Poppy, noted that the blockchain pilot had been funded from the strategic science budget, and he and Julie agreed that this was an excellent example of a strategic application of a rapidly expanding industry. The CE confirmed that the Board would be circulated with more background on the blockchain pilot.
20. Board Member Mary Quicke declared a conflict of interest as a Board Member of one of the sector boards of the Agriculture and Horticulture Development Board (AHDB), an industry body who had been involved in the blockchain pilot and which, she reported, was looking forward to seeing it more widely deployed.
21. The CSA reported that two of the Science Council Working Groups will formally report to the Science Council the week following the Board Meeting. He noted that one group had focused on how the FSA can improve its use of science and evidence across the Department, and had found that the FSA appears to be doing this in some areas but not universally across the organisation. He added that the second group had focused on the uncertainty of risk and would be recommending that the FSA considers a series of principles, based on Codex work in this area, on how to address risk using examples from its international work. The CSA noted that the Board Meeting agenda and papers would help inform their discussions the following week.

***ACTION 1 - Board Secretariat to plan in the forward agenda schedule for an update to the Board on the Science Council's work on risk communication and the wider issue of governance.***

22. The CE confirmed that the FSA will continue to use the advanced communication and technology used during Food Safety Week, as the campaign had been widely praised. Julie Pierce added that the promotional videos and content would be reused in external recruitment and through wider internal and external communications.

**EU EXIT UPDATE (FSA 18/06/03)**

23. The Chair welcomed Rod Ainsworth – Director of Regulatory and Legal Strategy and Rebecca Lamb – EU Exit Lead to the table to introduce the paper. Rod explained that this would be a short paper giving an update and outlining the FSA's preparations on how food safety risk management decisions could be taken following the UK's exit from the EU. Rod explained that it would not be possible to give detail in some areas due to the inherent sensitivities of the issues.
24. The Chair gave a short reminder about the FSA's current position on EU exit, in advance of the paper asking for further guidance from the Board as to the FSA's recommended and preferred outcomes.
25. The Chair outlined the four guiding principles established previously by the FSA Board. These are:
- public health comes first;
  - the regime continues to be science and evidence based;
  - public trust must be protected, through an ongoing commitment to openness and transparency;
  - future arrangements should be as unified as possible, whilst respecting devolutionary arrangements.
26. The Board had also commented that the arrangements should not hinder, and could help support trade but, that should not be at the expense of public health.
27. The Chair also reminded members that since setting out these principles, the FSA has regularly monitored delivery and risks in the EU Exit programme and are agreed that the Board would need to act if the FSA concluded that post-EU Exit:
- The regulatory regime's ability to deliver consumer protection and assurance would be materially worse;
  - Transparency and independence would be undermined to a level that materially reduces public trust; and

- If the FSA runs out of time or resources to deliver what is required, and any mitigating requests of Government are rejected, meaning that demands on the FSA are unachievable.
28. The Chair also explained that, in discussions with Ministers at the Department of Health and Social Care (DHSC), Defra and DExEU, they had also accepted that there is a need to fill the gap around regulatory competence of the FSA to make risk management decisions. Ministers had also agreed that any Ministerial decision on risk management should come from Health Ministers, maintaining the separation between public health concerns and economic interests arising from food. Ministers had welcomed the FSA's proposal to establish a regulatory forum to input to risk management positions. This should proceed, initially on a shadow basis. There had also been effective cooperation with Ministers in Wales and Scotland. Following the Board discussion, the Chair would write to Public Health Ministers in England, Wales and Northern Ireland confirming the FSA's position.

***ACTION 2 – Chair to write to relevant Ministers explaining the FSA's position in preparing for EU exit.***

29. The Chair shared correspondence with Members that she had received from Ian Wright, the Director General of the Food and Drink Federation. A copy of the letter is published alongside the Minutes on the FSA's website.
30. Laura Sandys thanked Rod and Rebecca, as well as the Chair, for the overview. She noted that, of the options presented in the paper – A and B – it was apparent option B was the preferred outcome. She also underlined the importance of having properly demarcated lines of responsibility to ensure appropriate accountability.
31. Colm McKenna noted that the end point of the FSA's preparations was clear but that some of the decisions would also likely impact on external parties such as port authorities. He asked what consideration had been given to these external impacts.
32. Mary Quicke expressed support for option B and commented on the need to ensure the budgetary requirements that would be necessary for the significant body of work this would entail.
33. David Brooks suggested that, once the membership of the regulatory forum had been established, consideration should be given to how this forum would make decisions on issues related to the FSA's risky foods framework.
34. Rod explained that the regulatory forum was a new initiative and that it was intended to have it established quickly. Given the lack of experience across government of such a body being established, there was an expectation that, to some extent, the development of the forum would be an iterative process. He explained it was envisaged that meetings of the group developing the forum would consist of three major strands of work addressing, respectively, the current

situation, how the forum would deal with issues in practice and what might need to change.

35. The Chair explained that there were two possible bodies capable of making decisions – the FSA and Ministers. The proposed regulatory forum would facilitate the FSA's decision making but it would have no decision-making power itself. Rod added that substantial legislative drafting had already been carried out to ensure that the UK would have an effective regulatory framework from March 2019.
36. In response to Colm McKenna's question, Rod explained that engagement was an area where, due to constraints on actions resulting from the sensitivities involved in EU exit, the FSA still had a lot to do, but this was now being scaled up.
37. Paul Williams mentioned uncertainty in consumer attitudes to questions of food safety following the UK's exit from the EU, suggesting that there will be a sizable communications strategy needed to ensure that public trust continues to be protected.
38. Dr Hussey welcomed the large amount of work that had evidently taken place in ensuring the body of UK law would be in place. She asked whether a motion of legislative consent would be required for issues within the competence of the devolved administrations explaining that there may be some sensitive issues where the UK and devolved governments may diverge. Rod explained that this will depend upon what is in the final Bill. He suggested that contentious issues were few and that consideration would be given to resolving each of them on a case by case basis.
39. Rosie Glazebrook referred to the attitudes data and questioned how it could be communicated to the public that the FSA has listened to what consumers are saying. The Chair commented that the expectation emerging from the attitudes data is that the public expect this to be sorted out. If the FSA is continuing to effectively manage the UK regulatory regime's ability to deliver consumer protection and assurance, then the consumer expectation will have been satisfied. The CSA explained that the 'Food and You' survey is a major piece of consumer insight work established some time ago and the next wave of this was due to be launched soon. The Social Sciences team have expressed an interest in undertaking a piece of work around what that survey may look like in the future, as there is an opportunity for the survey to capture some of the information around consumer insight and EU exit. The CE added that role of Social Science was growing in FSA, and that it would be important to ensure that the evidence to back up activity was there from a Social Science perspective.

***ACTION 3 – Social Science team to undertake work around the Food and You survey information in relation to consumer insight and EU exit.***

40. Stuart Reid asked a question about whether the level of engagement across various sectors was sufficient to ensure that there were not unintended

consequences for one sector in attempting to accommodate the concerns of another. Rod explained that so far this seems to have been avoided and that engagement with all stakeholders continues, bearing in mind these kinds of potential consequences.

41. The Chair returned the discussion to the issue of how food safety risk management decisions should be dealt with in future. Currently, the regulatory forum does not exist. The FSA had proposed to create it to reflect the general Government principle about EU Exit, that there should be minimum change. The FSA believed that minimum change meant that risk management decisions would rest with the FSA, as with EU Standing Committee procedures and practices today. Ministers recognise that this would require the FSA to be given new powers but have reservations around delegating accountability. This is where the forum operating in a shadow capacity can demonstrate its efficacy in dealing with risk management issues. There would also be questions around what would happen if the FSA were not to have accountability during an incident and it will be in those circumstances that the decision-making capacity will be tested.
42. Laura Sandys welcomed this clarification and mentioned a crisis scenario planning exercise that had been proposed at a previous FSA Board away day. She suggested that this would be an effective way of testing the new arrangements and could help to calcify many of the issues around responsibility, accountability and trust. Laura also raised a question about the timeframe for the forum to move away from operating in shadow form.
43. Paul Williams supported the proposition that by operating the forum in shadow form, Ministers will gain the confidence to delegate the necessary accountability. The CE explained that this will be an important stage in the forum's development to demonstrate competence and that it was hoped that the length of time that the decision-making power around food safety risk management should rest with Ministers should be quite short.
44. The Chair summarised the Board's policy and decisions on EU Exit as follows:
  - the Board had reaffirmed their commitment to the four principles set in December;
  - the Board maintains its commitment to the three indicators that would trigger action on the part of the FSA Board and that the accounting officer will be expected to bring these issues to the Board's attention;
  - option B is the better option according to the principle of minimum change and is endorsed by the Board;
  - the Board recommend that any risk management decisions about technical issues should sit with the FSA, with input provided by the new regulatory forum, while more complex issues should continue to the decisions for Health Ministers;
  - there needs to be clarity around decision making and accountability including around the role Ministers intend to play in the handling of food safety incidents;

- the Board understands why Ministers may want to retain the responsibility for risk management decisions but urges a short timeframe for this to transfer to the FSA and that the FSA is given the relevant powers to be able to fulfil that role effectively;
- the FSA would remain neutral on issues around devolution, and the mechanism being proposed by the FSA is able to accommodate whatever arrangements are finally agreed; and
- it is envisaged that the next step will be a wider consultation, and the Board looks forward to this taking place.

## **REGULATING OUR FUTURE MID-POINT PROGRAMME REPORT (FSA 18/06/06)**

45. The Chair welcomed Leigh Sharpington – Regulating Our Future Programme Manager to the meeting and invited Nina Purcell – Director of Wales and Regulatory Delivery Division, to introduce the paper. Nina extended her thanks to partner organisations who had engaged with the FSA in the development of the paper.
46. Dr Hussey made reference to the discussion around this paper that had occurred at the preceding Welsh Food Advisory Committee (WFAC) meeting. The committee has raised, in particular, the issue of ‘permit to trade’ and whether there was certainty that the proposed approach would be robust enough. There was also a question about segmentation and the link to the Food Hygiene Rating Scheme (FHRS). Dr Hussey asked whether, given the specific requirements around FHRS in Wales and in Northern Ireland (NI) where display of ratings is mandatory, the figures quoted in the paper were significant or whether they might be more instructive if the individual figures for each jurisdiction were available. Dr Hussey also asked to what extent affordability and food security had been accounted for in designing regulation. She also raised a question over the Board’s input into the operation of the risk engine.
47. Nina commented on the permit to trade issue. The legal advice received was that there is not enough information to be able to proceed with what would represent a significant piece of legislation. We would alert those who enable businesses to operate, such as banks, to the fact that the businesses they provide backing for may need to register. This should mean that the system, as well as being simpler and more comprehensive, will help to ensure there is compliance from businesses without a permit to trade. If it is later discovered that after all the help and signposting available businesses are still not registering, this could be an indication of a deeper problem with that business.
48. Dr Hussey questioned whether there could be certainty that the gap was being closed in businesses trading without a licence if there was currently insufficient evidence to assess how large the gap is. Nina replied that the FSA had a data collection exercise to get a more accurate picture of what is happening.
49. Julie Pierce added that the FSA was also creating a greater data analytics capability to understand what other sources of data might be available beyond

the figures received from local authorities, which should also help inform the picture of what is happening on the ground regarding licence to trade. The CSA added that the Lloyd's Foundation Foresight Review on food safety will give the FSA unique insight into how other organisations use data to drive assurance.

50. Paul Williams suggested that governments tend to support the recovery of costs from businesses until the scale of the costs become apparent. This will need to be considered when establishing how much of the cost can realistically be borne by the FSA.
51. Chris Hitchen explained that the meat sector was the one that comes closest to full cost recovery, and that there is a process in place to decide which costs are chargeable and which should be for the regulator to bear. The FSA has been working closely with the Cabinet Office team to determine which costs should be recovered.
52. The Chair explained that it was not for the FSA alone to make this case. The first job for the FSA is to design the system to be as effective as possible. Then that effective system needs to be paid for, and its operating costs can be established. If the mechanism by which it is paid for needs to change, then the FSA will require wider government support or it will not be able to deliver the regulation.
53. Colm McKenna suggested that there was a communications element that would be required to demonstrate to businesses the value that the FSA brings to them.
54. Nina addressed the question around the segmentation and the impact on FHRS, explaining that she was sensitive to the issues surrounding the scheme. She referred to a line in the paper indicating that some businesses would just pass through registration. She explained that this related to businesses whose primary function was not as a food business, but who may, for example sell a small amount of non-perishable, pre-packed, confectionary such as a chemist shop selling boiled sugar sweets. Confirmation would still be required from these businesses that the nature of their business has not changed but it is questionable otherwise whether it is desirable for Local Authorities to inspect this business. This will also require consultation with Local Authorities to assess if there are risks in this of which the FSA is not aware. She explained that a business' risk rating would be initially driven by the answers received from the questionnaire completed on registration but, as the data becomes more detailed, the risk engine will be better able to accurately identify the appropriate risk status of the business.
55. Nina added that importantly, businesses will have access to all the information about them (on which the risk rating is based) and will be able to say if they think that it is wrong.
56. Stewart Houston asked a question about third party assurance to ensure that the auditing model is good enough. He also asked whether moving existing businesses that had already registered over to the new system needed to be

considered and whether it might, in future, be possible to link up the electronic register with the livestock information program used on farms.

57. Nina explained that incorporating and scrutinising data used by private assurance companies is all part of the work being done now. It was emphasised that getting this aspect of the model correct would be the most important task in ensuring that the system can work effectively. She added that this workstream was primarily concerned with the registration of new businesses but that a workstream for existing businesses can be brought forward too.

***ACTION 4 – Nina Purcell to consider bringing forward the ROF workstream on moving existing registered food businesses over to the new system.***

58. Mary Quicke noted that the cost of regulation within businesses and the different models presented by third party assurance schemes. It was cautioned that third party assurance schemes will always seek to differentiate themselves and, however effective they appear to be, the FSA must be careful not to abandon the principles underpinning our risk ratings and to keep standards that are known to be robust. Nina replied that standards will be reviewed but care would be taken to ensure that the FSA is not gold-plating.
59. Colm McKenna asked how the FSA could be sure it was maximising the use of the data that was being collected for the risk engine and whether other uses had been identified. Nina explained that this has been discussed with other organisations and the data may play a part in lowering insurance rates for businesses deemed to be low risk. Julie Pierce added that the FSA was exploring ways to maximise the use of these data.
60. In response to Dr Hussey's earlier question, Nina replied that the national inspection strategy report will be out next month and the FSA has already prepared the standards for a national inspection strategy to be accepted between a Local Authority and a business. She also added that in response to Mary's question about additional costs to businesses, that it was foremost in the minds of those overseeing this work that this should not happen.
61. The Chair concluded the discussion:
- the Board will in due course set the parameters around risk tolerance in the new regulatory model;
  - the Board welcomed the progress with this ambitious programme in the past year and the harmonisation of workstreams between the Regulating Our Future (ROF) and EU exit programmes;
  - she noted that the Local Authority Scorecard had not been raised in the discussion but would come to the board in due course and it was critical for the FSA to scrutinise the performance information and outcome information from this new data set;
  - the Board endorsed the prioritisation of activity that can be taken forward ahead of EU exit; and

- the FSA Board does not intend to make any case on cost recovery in isolation from wider government action and support.

### **CUTTING PLANTS AND COLD STORES REVIEW (FSA 18/06/08)**

62. The Chair welcomed Ian McWatt, Director of Operations for Food Standards Scotland, and Simon Dawson – Head of Operations Assurance to the meeting and invited Colin Sullivan – FSA Chief Operating Officer to introduce the paper.
63. Colin explained that the review had been established following the 2 Sisters and Russell Hume incidents, and it was looking to assess whether there were more endemic problems that required attention around cutting plants and cold stores. He added that the paper was a work in progress. He explained that an important part of the review was to make sure that the regime enables Food Business Operators (FBOs) to take their primary responsibility in terms of ensuring food safety, public health, authenticity and food labelling. In terms of governance, the review team is reporting jointly to the Boards of the FSA and FSS. From the terms of reference of the review, he highlighted the risk that its scope begins to drift wider than its core focus. It was clarified that the review team would be focussing on cutting plants and cold stores and, should other issues come to light in connected or affiliated sectors, recommendations would be made to address these separately, after September. Colin highlighted the nine workstreams outlined in the paper, drawing the Boards' attention to the five workstreams from which the recommendations would be likely to arise:
- the operating models of the FSA and FSS;
  - the operating model for Local Authorities;
  - industry assurance;
  - intervention strategies; and
  - the competence of personnel.
64. Colin also made reference to the Challenge Group, which had offered constructive challenge on the importance of lessons learned from previous incidents and the importance of consumer segmentation and the categorisation of findings and solutions according to the level of public health risk.
65. Ian McWatt emphasised that the two organisations, FSS and FSA, were working well together and were clear that they were working on the basis of a four-country model. He explained that in Scotland there was already a Scottish national protocol, interfacing with local authority systems, gathering in real time risk data and performance data. He also explained that FSS had been developing a single intervention model combining data from standards and hygiene inspections, which aligns well with the ambitions of the ROF programme.
66. The Chair thanked Colin and Ian for the introduction and accepted there was a need to address the synchronicity issue, indicating that the joint away day between FSA and FSS Boards in October offered a good opportunity.

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67. Laura Sandys asked a question relating to the work with the ROF team and the recommendations around the sharing of data on the assurance processes that third parties are using. Colin Sullivan explained that they had been working through the recommendations of the EFRA Committee in relation to the 2 Sisters incident. Simon Dawson added that the issue does not appear to be that the standards of third party assurance companies do not cover basic food safety requirements, rather the scope of their accreditation is so broad it also takes in non-legislative issues. The challenge then, is to extract the relevant data from these schemes.
  68. Mary Quicke commented on the pause in recruitment of meat hygiene inspectors asking why this had come about and whether there were any issues emerging from it. Colin replied that one of the findings was that the focus within the industry over the recent period seems to have been more on slaughter houses, to the detriment of cutting plants and cold stores, and that this was where there was a need to refocus. He explained that there was an issue around the number of Meat Hygiene Inspectors (MHIs), but that the FSA does not currently have staff stationed in cutting plants and cold stores, so the issue is not directly related to staff numbers. It was accepted however, that it may impact on the number of unannounced inspections the FSA is able to undertake.
  69. Colm McKenna welcomed the report and acknowledged that it was an interim report. He noted, that the report mostly contained recommendations for the FSA and fewer for industry. Colin accepted that this was the case, explaining that it is easier to look at what you have been doing yourself rather than the work of others. Colin indicated that the final report would show greater balance and contain recommendations for both industry and the FSA.
  70. Dr Hussey made reference to the complex arrangement of responsibilities between Local Authorities and the FSA and asked whether there was a more fundamental question about whether these responsibilities are correctly attributed. Ian replied that in phase 2 of the review the team will be looking at opportunities to improve the regime and if re-casting responsibilities is seen to be beneficial this will be considered.
  71. The Chair thanked Ian, Simon and Colin for answering the Board's questions and suggested it would be important to be ambitious about what can be achieved, though not unrealistic about the length of time it can take to effect behavioural change.
  72. The CE explained that, from his point of view, it was about learning to better target resources, and that industry should accept that the reputational damage done by incidents is not only to the companies involved, but to the sector. Sharing knowledge of issues with the FSA can help to protect that reputation.

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**RAW DRINKING MILK (FSA 18/06/07)**

73. The Chair welcomed Michael Wight, the Acting Director of Policy and Science, and Simon Dawson, the Head of Operations Assurance, to the table to discuss the paper.
74. Michael noted that the Board discussed Raw Drinking Milk (RDM) controls in March, when they identified a number of areas they wished to see further explored or considered. Michael noted that this paper provided the Board with an updated risk assessment of RDM; an economic analysis and evident review of additional consumer insight work; and recommended the introduction of RDM controls that were more in line with the Northern Ireland model.
75. Michael added that following the Board's request in March, the FSA had worked with farmers and producers through the National Farmers Union, and an Association for RDM Producers had been established. This Association had commissioned a piece of consumer research on RDM, which he cautioned might produce results quite obviously in favour of RDM. He was pleased to note that the Association had encouraged producers to have a Hazard Analysis and Critical Control Points (HACCP) plan before selling and licensing their product.
76. Michael also noted that the FSA executive and policy teams had previously been slow to begin work on the Statutory Instrument around labelling of RDM. He reported that whilst work on this had begun in January 2018, further progress had been temporarily halted whilst the Cabinet Office examined whether the FSA had been compliant with new guidance for serving criminal sanctions. Michael clarified that this was a central government requirement which had been holding up other pieces of legislation. He confirmed that the FSA would continue to work with the Cabinet Office to progress this.
77. The Chair commented that the FSA needed to be very clear on its policy when using sanctions. Part of the problem appeared to be a lack of understanding in Ministerial departments of our overall policy position. This was therefore holding up requests on specific regulatory standards. She proposed that Ministers should be asked to recognise and agree the principles on which the FSA approached these issues, to ease the process and give confidence externally. This would include noting that, whilst the FSA does not reach criminal sanctions easily, they must be seen as a final step, and do serve a strong purpose. The Board agreed that they expected a further update about this work at their next meeting. There was also an outstanding action point from a previous Board meeting to look more generally at managing this type of issue with Ministerial departments.

***ACTION 5: Michael Wight to update the Board on the progress of the labelling Statutory Instrument at the September Board Meeting.***

78. The Chair also noted that whilst the Board welcomed the creation of a RDM producer group, it was disappointing to see that their first action had been to commission research from their consumers. She added that it would hardly be

surprising that these consumers think RDM is a good thing. The value a producer group can add from a regulatory perspective is to help producers understand their obligations and how they can be helped to comply more effectively

79. Dr Ruth Hussey, the Chair of WFAC reported that at their meeting, WFAC maintained the view that the sale of RDM should be prohibited. She clarified that WFAC hoped that consumers would receive very clear communication from the FSA and producers that RDM offers no health benefits and that there were risks associated with its consumption. Dr Hussey added that if the Board did not agree with this advice, WFAC would welcome advanced controls but would require clear triggers to be established to be confident with regard to consumer safety.
80. Dr Hussey requested further work on marketing RDM which concentrated on what claims can be made about the benefits of consumption. She added that labelling of RDM should be strengthened and that all labels should be clear that RDM is not for consumption by children. She concluded that there should not be any financial incentives for producers of RDM.
81. David Brooks offered a number of comments about RDM controls. He noted that whilst consumers must have a choice, the FSA must mitigate as many risks as possible. He stated that pathogen management by RDM producers should be a requirement, and that the same level of control should be applied to raw milk from other species – e.g. goats. David also stated his wish that the RDM industry should be liable for full cost recovery given the commercial benefits for producers.
82. In response, Michael acknowledged that food labels generally communicate information adequately to the consumer, but that the FSA would consider adding additional information on RDM to its website. He noted that whilst the FSA is not anticipating increasing the cost of enforcement of RDM for producers, producers will be expected to self-sample and self-test their products before sale, which will come at significant cost to them.

***ACTION 6: Michael Wight/policy team to add additional information on RDM to the FSA's website.***

83. The CE clarified that increasing cost recovery for RDM producers would require significant legislative support which the FSA would struggle to gain due to the pressure on legislative timetables and EU exit planning. Chris Hitchen, the Director for Finance and Performance, added that whilst Her Majesty's Treasury (HMT) would like the FSA to recover costs, the current legislation does not allow this fully and it should therefore be considered across the landscape of all food risks. The Chair confirmed that this mechanism is not completely within the FSA's control, but work will continue to address the issue.
84. Michael noted that RDM from other species are subject to the same controls and the CSA agreed that while the FSA does not have the evidence to hand on the RDM of other species, controls should not be optional and the public health risk must be managed sensibly.

85. In response to David Brooks' further question about whether the FSA can achieve value for money when regulating RDM, the Chair confirmed that RDM is one type of food covered by the FSA's risky foods framework and the process for regulating it within this context must be followed. She and the Board agreed with David's earlier comment that the FSA will require pathogen sampling from RDM producers.
86. Mary Quicke registered her interest as a dairy farmer and recorded that she had encouraged the RDM producers to join the new Producers Association.
87. Colm McKenna reported that the Northern Ireland Food Advisory Committee (NIFAC) had agreed RDM controls should follow the NI approach, but encouraged faster tracking, and agreed with the suggested triggers laid out in the paper due to the worrying level of risk in regard to protecting children. He commented that some RDM producers allude to implied nutritional benefits and that the FSA should be vigilant when inspecting producers.
88. In response to Rosie Glazebrook's question, Michael confirmed that the FSA will investigate and look for improved data or statistics on the consumption of RDM by children.

***ACTION 7 – Michael Wight/policy team to look for improved data or statistics on the consumption of RDM by children.***

89. Stewart Houston queried how often the FSA will require producers to take samples and what action would be taken following a series of failed samples. In response, Simon Dawson clarified that samples are currently taken quarterly and, if they fail, producers must prohibit further sale until three consecutive successful samples are provided.
90. In response to Dr Hussey's question about how long the new controls would take to be implemented, Michael acknowledged that it would be difficult to provide an accurate timescale, but he anticipated new standards would be established by the end of 2018.
91. The CSA commented that he felt there was a consumer trend towards associating "raw" with good and "processed" with bad. He noted that the FSA, as a trusted source of consumer information, should be looking ahead to future work as he anticipated these associations to be present across different food sectors. Stuart Reid agreed and noted that there are a number of moral and ethical issues associated with RDM production, and that a fatality from RDM consumption would be wholly realistic unless the risks are greater publicised and understood.
92. The Chair summarised the discussion, the Board's policy and key actions as follows:

- RDM is a risky food and should continue to be addressed through the FSA Risky Foods Framework;
- the FSA does not recognise any health benefits from consuming RDM;
- prohibition of sale remains on the table and the FSA will consider this step if controls are not adequate to protect consumers (acknowledging WFAC's wish to see sales prohibited);
- the Board agreed a number of enhanced controls for introduction. These were: registration of RDM producers to be strengthened; routine pathogen sampling and water testing by producers; and a requirement for a verified food safety management plan on HACCP principles;
- the Board wished to see a proportionate escalation procedure in the event of these controls not being introduced or other factors that could impact the effectiveness of the approach in controlling public health risks from RDM. The triggers for this escalation procedure should be reported to the Board for approval in December 2018;
- the Association of RDM Producers is encouraged to focus on meeting compliant standards, on sampling products before sale, maintaining a HACCP plan, and on fully recognising and communicating the risks of consuming RDM to consumers;
- the Board did not wish to see any further financial incentives driving up supply and demand for RDM given the public health risks;
- the Board looked for clear and timely action on any misleading or inaccurate claims about the health or nutritional benefits of RDM;
- the FSA Board recognises that consultation takes time but emphasised that the consultation should be on the mechanism to achieve the new controls, not whether they should be in place;
- The Board expected to see controls implemented as soon as possible.

***ACTION 8: Michael Wight to introduce a number of enhanced controls, including: registration of RDM producers to be strengthened; routine pathogen sampling and water testing by producers; and a requirement for a verified food safety management plan on HACCP principles.***

***ACTION 9: Michael Wight to include proportionate escalation procedure in his next update report to the Board in December 2018.***

93. The Chair noted that in relation to RDM from other species, the FSA does not currently have enough science or evidence to have an informed discussion and decide about safety and controls for these products.

***ACTION 10: Michael Wight to gather evidence on RDM of other species and report back to the Board at the December Board Meeting.***

94. The Chair lastly noted that she, the CE and Chris Hitchen would consider cost recovery across the FSA agenda in as focused and a coherent way as possible.

***ACTION 11 – The Chair, Jason Feeney and Chris Hitchen to look at the issue of cost recovery across the FSA and to come back to the Board in September on this issue.***

**NFCU BUSINESS CASE (FSA 18/06-09)**

95. The Chair welcomed Andy Morling, the Head of the National Food Crime Unit (NFCU), to the table.
96. Colin Sullivan, Chief Operating Officer, outlined that the NFCU Business Case for expansion and accession to Phase 2 had recently been approved by HMT. He noted that the business case had been drawn together with help from a cross-Government group made up of officials from DHSC, the Department for Business, Energy, Innovation and Skills, the Home Office and Defra. A sub-group of the FSA's Board had considered the proposal before it was submitted to HMT. Colin highlighted that expansion of the NFCU would see staffing increase from 20 to 80 staff, a need for a new legislative vehicle to investigate criminals and a full organisational review within the first three years.
97. Stewart Houston voiced his strong support for expansion of the NFCU.
98. In response to David Brooks' query on evaluation of the use of funds and how 60 additional staff will be recruited, Andy Morling, Chris Hitchen and Maria Jennings, Director of Northern Ireland, People and Organisational Development, confirmed that a number of HR measures are in place to support planned recruitment. Maria stated that short-term accommodation arrangements may have to be put into place to accommodate the extra staff, and that the executive would be considering the FSA's estate in the longer term, with a view to arranging a permanent tenancy. Chris and Colin added that the NFCU business case was submitted to HMT as part of the FSA's bid for additional EU exit funds, and submitting monthly returns to HMT was not considered to be unusual or unexpected. Andy confirmed that recruitment for these positions would take full advantage of the intelligence network that the NFCU has built over the last few years and offer a variety of flexible working arrangements which he hoped would be attractive to prospective candidates.
99. Andy Morling confirmed that the NFCU is very engaged with the Government Agencies Intelligence Network and this multi-agency group had been consulted with when the business case was drafted. He acknowledged that some additional powers could be utilised immediately, whilst others would be sought through longer term legislative change.
100. In response to Dr Hussey's comment about expansion requirements from the devolved administrations, Andy confirmed that the NFCU will proactively seek their input as work continues.
101. The Chair acknowledged the questions received in the joint letter from the Association of Chief Trading Standards Officers (ACTSO) and the Chartered Trading Standards Institute (CTSI) and confirmed that the FSA had considered the consultation process 18 months previously. Colin confirmed that he, Nina and Andy had met with Trading Standards and that they were comfortable with

the NFCU's future direction of travel, recognising the cross departmental support for this initiative and that the questions received from ACTSO/CTSI would be answered in correspondence.

102. The Chair summed up the Board's decisions:

- the Board agreed to progress to implement Phase 2 of the NFCU as set out in the paper;
- in doing so, the Board acknowledged that there was no long-term funding guarantee. If resources were subsequently withdrawn or reduced, the Board would have to review the scale and capability accordingly;
- the Board wished to receive a full organisational review of the NFCU in three years' time;
- progress would be monitored annually;
- it was essential that the need to secure powers for to realise the full potential of the NFCU in Phase 2 was kept live.

#### **INTERNATIONAL STRATEGY (FSA 18/06/10)**

103. The Chair welcomed Steve Cowperthwaite, Head of EU and International Strategy, to the table.

104. Steve confirmed that this strategy will be implemented across the FSA by over forty officials who are engaged in the FSA's international work. The CE reassured the Deputy Chair that the FSA understands its international ambitions, and that these are shared ambitions across key countries the FSA is engaged with. Rod Ainsworth, the Director for Regulatory and Legal Strategy, noted that the FSA has always been very good at international work despite never having had a formal, written strategy before.

105. Rosie Glazebrook commented that the FSA should record all its international data and share any helpful studies or lessons learnt with OGDs. Dr Hussey noted that she was pleased with the FSA's primary ambition to increase its visibility across Whitehall.

106. The Board:

- agreed the international strategy. The vision, aims and approach were now the approved direction for the FSA;
- noted that if it needed to change, the Board would require an update as to why and to approve those changes; and
- wished to understand further governance and scrutiny of the international activity of the FSA.

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**FOOD ADVISORY COMMITTEES REVIEW (FSA 18/06/11)**

107. The Chair welcomed Laura Eden and Zoë Bond, joint heads of Private Office, to the meeting to introduce this paper. Laura explained that they were reporting on the review which had been commissioned by the Chair and led by Deputy Chair Laura Sandys, supported by Olivia Price in Private Office, and by interactions with staff in the devolved offices. Laura outlined the role of the Food Advisory Committee in relation to the Board, and explained the purpose of the review. She explained how the review had been conducted.
108. Zoë Bond outlined the recommendations that had been made in the report, including the changing of the timing and format of meetings. It was also explained that there would be a reduction in the number of days required per annum for new Committee members.
109. Laura Sandys acknowledged the work Laura and Zoë had done in supporting the review as well as that of Colm McKenna and Dr Hussey, on the review team. She explained that one of the issues emerging from the consultation was that the Committees were trapped somewhat by the Board's agenda. The recommendations should allow scope for the FACs to examine the Board's forward plan and to look back at previous Board meetings to ensure devolved issues are being accommodated in discussions. Valuable feedback had been received from the Members of NIFAC and WFAC.
110. Dr Hussey echoed the thanks to all those who participated in the review as well as to Zoë and Laura. She informed the Board that WFAC had welcomed the recommendations and noted that implementation would now be the key to ensuring the Committees' effectiveness.
111. Colm McKenna also thanked Zoë and Laura for their work on the review. He informed the Board that NIFAC had been well engaged throughout and there had been useful discussions with the Permanent Secretary for Health in Northern Ireland, Richard Pengelly, about the scope and nature of the review, which had been considered largely as an internal FSA matter. He explained that the dominant view from NIFAC had been that the review should not become a static document, but should be flexible enough to allow for changes where it becomes apparent they would be beneficial in implementation, which should begin as soon as possible.
112. David Brooks commented on the recommendation in the report to make better use of the networks of the members of the advisory committees, suggesting that this should also apply to Members of the FSA Board.

The recommendations that the Board accepted for implementation are:

1. The Chair of the FSA Board with the FAC Chairs should set the FACs questions or priorities to consider within a set time frame.

2. The FACs should plan their work based on the forward look of future Board papers and engagements, to allow sufficient time to provide advice.
3. To establish more meaningful interaction with the FSA Board and country executives, the work of the FACs should be re-focused and the format of the FACs meetings should be re-shaped to include:
  - i. Issues arising from the previous Board papers of national relevance;
  - ii. A review of Board papers when published and advice to the FAC Chair of matters to be raised at the Board meeting;
  - iii. Examination of the forward Board agenda and input of key issues that might need to be considered in the papers, anticipating devolved issues for the Board;
  - iv. Horizon scanning for future issues that could be considered by the Board and the executive;
  - v. Providing ad-hoc advice on issues that the FAC believe relevant to the Board that sit outside of the Board papers;
  - vi. An opportunity for the FAC Chair to bring other/country specific agenda items to the attention of the FAC.
4. This will change the cycle of meetings so that there is timely input to policy development.
5. Identify wider opportunities for FAC engagement with the FSA Board, on matters relating to specific devolved matters.
6. Existing guidance to officials drafting Board papers should be strengthened to emphasise country-specific issues, highlighting areas where policy or practice is different across the three nations.
7. Data pertaining to key FSA priorities or programmes should be routinely available or analysed to highlight country specific issues, and be made available to the FACs and the Board.
8. The briefing on national perspectives from the FAC to the Board at Cardiff and Belfast meetings should continue.
9. The FAC annual report to the Board should continue but should in future be shaped around the themes outlined in Recommendation 3.
10. The FAC Chairs and the country executives should review the capabilities and expertise of FAC members (including their access to relevant networks) with a view to developing an agreed optimal mix of skills for the respective

committees, with the Chair of the Board. This should be considered when recruiting new FAC members, to ensure the future requirements of the FACs and FSA Board are met.

11. FSA officials to provide support and, where appropriate, access to specialist expertise to enable the Food Advisory Committees to fulfil their roles.
12. FAC members should contribute intelligence from their networks to the Board.
13. FAC Chairs to develop an annual plan with the national executives to improve engagement with FAC networks and complement FSA engagement with FSA stakeholders to increase knowledge of relevant issues and raise visibility.
14. New FAC members should be contracted to serve 21 days per annum.

### **ARAC ORAL REPORT**

113. The Chair invited Colm McKenna to update the Board on discussions at the Audit and Risk Assurance Committee (ARAC). Colm explained that there had been two meetings of ARAC since the last Board meeting. Paul Williams had joined ARAC following the departure of Ram Gidoomal. There had been a positive report from the National Audit Office (NAO). The Audit Committee part of this report had been long, covering the four sets of accounts for the FSA. There had been specific discussions on risk management with recommendations around EU exit. ARAC will now follow up on all the recommendations, and have the relevant risks regraded. The second meeting within the period was used to discuss the meeting with the NAO. There had been a good discussion with the lead of internal audit and both internal audit and ARAC are taking on additional responsibility for Local Authority auditing monitoring.
114. The Chair thanked Colm for this update.

### **FOOD ADVISORY COMMITTEE REPORTS (FSA 18/06/01 & FSA 18/06/02)**

115. Heather invited Dr Hussey and Colm McKenna to update the Board on the discussions at the recent meetings of the FACs. Dr Hussey explained that at the WFAC meeting there had been a discussion around FBO compliance and emerging feedback on the latest consumer messaging around burgers served less than thoroughly cooked.
116. Colm reminded the Board of the FSA's responsibility for nutrition in NI and explained that in addition to the papers being discussed by the Board, NIFAC had received an update on the *Calorie Wise* scheme which is driven by the FSA in NI and encourages businesses to display the calorie content of food on menus. The scheme has been going well and NIFAC members will be using their individual networks to do what they can to encourage further uptake of the scheme.

**ANY OTHER BUSINESS**

117. No further business was raised and the Chair closed the meeting. The next meeting of the FSA Board is scheduled for the 19 September, in Cardiff and there will be some stakeholder engagement opportunities for Board Members on the day before the meeting.
118. Stuart Houston added that he would like to extend thanks to all the businesses that had hosted the FSA Board's visits preceding this meeting.